

ESTTA Tracking number: **ESTTA445583**

Filing date: **12/09/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Ferrosan Medical Devices A/S
Granted to Date of previous extension	12/11/2011
Address	Sydmarken 5 DK-2860 SÅborg, DENMARK

Attorney information	B. Brett Heavner Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P. 901 New York Avenue, NW Washington, DC 20001-4413 UNITED STATES docketing@finnegan.com, b.brett.heavner@finnegan.com, alanna.cheli@finnegan.com Phone:202-408-4000
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Applicant Information

Application No	85216966	Publication date	06/14/2011
Opposition Filing Date	12/09/2011	Opposition Period Ends	12/11/2011
Applicant	HS TM, LLC 220 Continental Drive, Suite 115 Newark, DE 19713 UNITED STATES		


Goods/Services Affected by Opposition

Class 005. All goods and services in the class are opposed, namely: Wound dressings, wound closures, namely, adhesive tape strips, skin adhesives and skin staples and clips, surgical tapes
Class 010. All goods and services in the class are opposed, namely: Surgical marking pens for use in surgical procedures, wound drains, covers in the nature of surgical drapes, sutures, surgical drapes and gowns, surgical shoe covers, surgical caps, surgical lab coats, medical trays for surgical purposes, disposable medical trays for surgical instruments, trays for holding medical, surgical, dental and veterinary instruments, surgical gloves, operating room towels, laparotomy sponges, scalpels and surgical blades
Class 025. All goods and services in the class are opposed, namely: Disposable clothing, namely, gowns, coveralls, lab coats, frocks, shoe covers, sleeves, bouffant caps

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2425425	Application Date	12/30/1996
Registration Date	01/30/2001	Foreign Priority Date	NONE
Word Mark	SURGIFOAM		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 010. First use: First Use: 2000/01/28 First Use In Commerce: 2000/01/28 absorbable surgical sponges and hemostats		

U.S. Registration No.	2967219	Application Date	11/11/2003
Registration Date	07/12/2005	Foreign Priority Date	NONE
Word Mark	SURGIFOAM		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: Surgical and wound dressings; medical plasters; haemostatic and vulnerary absorbable gelatine powder, sponges, tampons, paste and sterile sodium chloride for surgery and dental surgery Class 010. First use: Syringes, tubes and catheters for treatment of wounds; surgical sponges; basins and vials for medical purposes namely for mixing and preparing haemostats		

Attachments	75219197#TMSN.gif (1 page)(bytes) 79000134#TMSN.jpeg (1 page)(bytes) Notice of Opposition -Serial No. 85216966.pdf (20 pages)(1960580 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/B. Brett Heavner/
Name	B. Brett Heavner
Date	12/09/2011

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

FERROSAN MEDICAL DEVICES A/S,)	
)	
Opposer,)	Opposition No.
)	
v.)	Serial No. 85216966
)	Mark: SURGITEAM
HS TM, LLC,)	Filing Date: January 13, 2011
Applicant.)	
)	
)	

NOTICE OF OPPOSITION

Opposer Ferrosan Medical Devices A/S (“Opposer”), believes that it will be damaged by the registration of the mark SURGITEAM as shown in Application Serial No. 85216966, filed by HS TM, LLC (“Applicant”) and hereby opposes same. As grounds for its opposition, Opposer alleges as follows upon actual knowledge as to its own acts and upon information and belief as to all other matters.

Opposer and its SURGIFOAM Mark

1. Opposer Ferrosan Medical Devices A/S is a Danish corporation, having a business address at Sydmarken 5 DK-2860, Soborg, Denmark.

2. Opposer owns Registration No. 2425425 for the mark SURGIFOAM for “absorbable surgical sponges and hemostats” in International Class 10. Opposer also owns Registration No. 2967219 for the mark SURGIFOAM for “surgical and wound dressings; medical plasters; haemostatic and vulnerary absorbable gelatin powder, sponges, tampons, paste and sterile sodium chloride for surgery and dental surgery” in International Class 5 and “syringes, tubes and catheters for treatment of wounds;

surgical sponges; basins and vials for medical purposes namely for mixing and preparing haemostats” in International Class 10. (Printouts from the PTO TESS/TARR and Assignment databases for these registrations are attached as Exhibit A.)

3. Opposer has continuously used the SURGIFOAM mark in the United States since at least as early as January 2000, long before any priority date that may be asserted by Applicant.

Applicant and its SURGITEAM Application

4. Applicant HS TM, LLC, a Delaware corporation with an address of 220 Continental Drive, Suite 115, Newark, Delaware, is the listed owner of Application Serial No. 85216966 for the mark SURGITEAM for “wound dressings, wound closures, namely, adhesive tape strips, skin adhesives and skin staples and clips, surgical tapes” in International Class 5; “surgical marking pens for use in surgical procedures, wound drains, covers in the nature of surgical drapes, sutures, surgical drapes and gowns, surgical shoe covers, surgical caps, surgical lab coats, medical trays for surgical purposes, disposable medical trays for surgical instruments, trays for holding medical, surgical, dental and veterinary instruments, surgical gloves, operating room towels, laparotomy sponges, scalpels and surgical blades” in International Class 10; and “disposable clothing, namely, gowns, coveralls, lab coats, frocks, shoe covers, sleeves, bouffant caps” in International Class 25, filed on January 13, 2011, based on Applicant’s intention to use the mark (the “Application”).

Likelihood of Confusion, 15 U.S.C. § 1052(d)

5. Opposer has used the SURGIFOAM mark in the United States long before the filing date of the opposed Application and any date of first use that may be alleged by Applicant. Opposer's Registration Nos. 2967219 and 2425425 for the SURGIFOAM mark also issued prior to the filing date of the opposed Application and any date of first use that may be alleged by Applicant.

6. Applicant's SURGITEAM mark is similar in appearance, pronunciation, and overall commercial impression to Opposer's SURGIFOAM mark. The goods identified in Application No. 85216966 are identical to or closely related to Opposer's goods.

7. In view of the similarity of the parties' marks and the overlapping or closely related nature of the parties' goods, Applicant's mark SURGITEAM mark so resembles Opposer's previously used and previously registered SURGIFOAM mark as to be likely to cause confusion, or to cause mistake, or to deceive under Section 2(d) of the Lanham Act, as amended, 15 U.S.C. § 1052(d).

WHEREFORE, Opposer believes that it is being and will be damaged by the registration of the mark shown in Application Serial No. 85216966, and respectfully requests that the opposition be sustained and registration be refused.

A filing fee has been submitted herewith. If the filing fee is found to be insufficient for any reason, please charge the deficiency to our Deposit Account No. 06-0916.

Respectfully submitted,

FERROSAN MEDICAL DEVICES A/S

Dated: December 9, 2011

By: /B. Brett Heavner/

B. Brett Heavner
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER L.L.P.
901 New York Avenue, NW
Washington, D.C. 20001-4413
(202) 408-4000

Attorneys for Opposer

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing NOTICE OF OPPOSITION was served by first class mail, postage prepaid, on this 9th day of December 2011, on Applicant's counsel of record at the following address:

Amy Opp Gaven
Donovan & Yee LLP
161 Avenue of the Americas
Room 1201
New York, NY 10013-1284

/Alanna L. Cheli/
Alanna L. Cheli
Litigation Legal Assistant

FERROSAN MEDICAL DEVICES A/S v. HS TM, LLC,

Mark: SURGITEAM

Serial No.: 85216966

Filing Date: January 13, 2011

NOTICE OF OPPOSITION

Exhibit A



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Typed Drawing

Word Mark	SURGIFOAM
Goods and Services	IC 010. US 026 039 044. G & S: absorbable surgical sponges and hemostats. FIRST USE: 20000128. FIRST USE IN COMMERCE: 20000128
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	75219197
Filing Date	December 30, 1996
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	September 30, 1997
Registration Number	2425425
Registration Date	January 30, 2001
Owner	(REGISTRANT) JOHNSON & JOHNSON CORPORATION NEW JERSEY One Johnson & Johnson Plaza New Brunswick NEW JERSEY 089337001 (LAST LISTED OWNER) FERROSAN MEDICAL DEVICES A/S CORPORATION DENMARK SYDMARKEN 5 DK-2860 SOBORG DENMARK
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	B. Brett Heavner
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20110212.

**Renewal
Live/Dead
Indicator**

1ST RENEWAL 20110212
LIVE

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 - STRUCTURED
 - FREE FORM
 - BROWSE DICT
 - SEARCH OG
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 - HELP
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Serial Number: 75219197 Assignment Information Trademark Document Retrieval

Registration Number: 2425425

Mark (words only): SURGIFOAM

Standard Character claim: No

Current Status: The registration has been renewed.

Date of Status: 2011-02-12

Filing Date: 1996-12-30

Transformed into a National Application: No

Registration Date: 2001-01-30

Register: Principal

Law Office Assigned: LAW OFFICE 115

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: (NOT AVAILABLE)

Date In Location: 2011-02-12

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. FERROSAN MEDICAL DEVICES A/S

Address:

FERROSAN MEDICAL DEVICES A/S

SYDMARKEN 5

DK-2860 SOBORG

Denmark

Legal Entity Type: Corporation

State or Country of Incorporation: Denmark

GOODS AND/OR SERVICES

International Class: 010

Class Status: Active

absorbable surgical sponges and hemostats

Basis: 1(a)

First Use Date: 2000-01-28

First Use in Commerce Date: 2000-01-28

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2011-02-12 - First renewal 10 year

2011-02-12 - Section 8 (10-year) accepted/ Section 9 granted

2011-01-31 - TEAS Section 8 & 9 Received

2010-12-15 - Automatic Update Of Assignment Of Ownership

2006-09-28 - Section 8 (6-year) accepted & Section 15 acknowledged

2006-09-28 - Assigned To Paralegal

2006-07-05 - Section 8 (6-year) and Section 15 Filed

2006-07-05 - PAPER RECEIVED

2006-07-10 - Case File In TICRS

2001-01-30 - Registered - Principal Register

2000-09-07 - Allowed for Registration - Principal Register (SOU accepted)

2000-08-21 - Statement Of Use Processing Complete

2000-06-23 - Use Amendment Filed

1999-12-20 - Extension 4 granted

1999-12-20 - Extension 4 filed

1999-06-25 - Extension 3 granted

1999-05-28 - Extension 3 filed

1998-12-02 - Extension 2 granted

1998-10-05 - Extension 2 filed

1998-07-08 - Extension 1 granted

1998-06-22 - Extension 1 filed

1997-12-23 - NOA Mailed - SOU Required From Applicant

1997-09-30 - Published for opposition

1997-08-29 - Notice of publication

1997-08-06 - Approved For Pub - Principal Register

1997-07-31 - Examiner's amendment mailed

1997-07-25 - Non-final action mailed

1997-07-17 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

B. Brett Heavner

Correspondent

B. Brett Heavner

FINNEGAN HENDERSON FARABOW GARRETT & DUN
901 NEW YORK AVE, NW
WASHINGTON DC 20001-4413
Phone Number: 202 408-4000
Fax Number: 202 408-4400

Domestic Representative

B. Brett Heavner
Phone Number: 202 408-4000
Fax Number: 202 408-4400



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Trademark Assignment Abstract of Title

Total Assignments: 2

Serial #: [75219197](#)

Filing Dt: 12/30/1996

Reg #: [2425425](#)

Reg. Dt: 01/30/2001

Registrant: JOHNSON & JOHNSON

Mark: SURGIFOAM

Assignment: 1

Reel/Frame: [2692/0656](#)

Received: 03/18/2003

Recorded: 03/12/2003

Pages: 4

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: [JOHNSON & JOHNSON](#)

Exec Dt: 04/02/2001

Entity Type: CORPORATION

Citizenship: NEW JERSEY

Entity Type: DANISH COMPANY

Citizenship: NONE

Assignee: [FERROSAN A/S](#)

SYDMARKEN 5

2860 SOEBORG, DENMARK

Correspondent: FINNEGAN, HENDERSON, FARABOW, GARRETT

B. BRETT HEAVNER

1300 I STREET, N.W.

WASHINGTON, D.C. 20005-3515

Assignment: 2

Reel/Frame: [4422/0577](#)

Received: 11/30/2010

Recorded: 11/30/2010

Pages: 5

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: [FERROSAN A/S](#)

Exec Dt: 10/26/2010

Entity Type: CORPORATION

Citizenship: DENMARK

Entity Type: CORPORATION

Citizenship: DENMARK

Assignee: [FERROSAN MEDICAL DEVICES A/S](#)

SYDMARKEN 5

DK-2860 SOBORG, DENMARK

Correspondent: B. BRETT HEAVNER

901 NEW YORK AVENUE, NW

WASHINGTON, DC 20001-4413

Domestic rep: B. BRETT HEAVNER

901 NEW YORK AVENUE, NW

WASHINGTON, DC 20001-4413

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(Use the "Back" button of the Internet

[Browser to return to TESS](#))**SURGIFOAM****Word Mark** SURGIFOAM**Goods and Services** IC 005. US 006 018 044 046 051 052. G & S: Surgical and wound dressings; medical plasters; haemostatic and vulnerary absorbable gelatine powder, sponges, tampons, paste and sterile sodium chloride for surgery and dental surgery

IC 010. US 026 039 044. G & S: Syringes, tubes and catheters for treatment of wounds; surgical sponges; basins and vials for medical purposes namely for mixing and preparing haemostats

Standard Characters Claimed**Mark Drawing Code** (4) STANDARD CHARACTER MARK**Serial Number** 79000134**Filing Date** November 11, 2003**Current Filing Basis** 66A**Original Filing Basis** 66A**Published for Opposition** April 19, 2005**Registration Number** 2967219**International Registration Number** 0815000**Registration Date** July 12, 2005**Owner** (REGISTRANT) Ferrosan A/S PUBLIC LIMITED COMPANY DENMARK Sydmarken 5 DK-2860 Søborg DENMARK

(LAST LISTED OWNER) Ferrosan Medical Devices A/S A/S (limited liability company) Sydmarken 5
DK-2860 Søborg DENMARK

Prior Registrations 2425425
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15. SECTION 71
Live/Dead Indicator LIVE

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Serial Number: 79000134 Assignment Information Trademark Document Retrieval

Registration Number: 2967219

Mark

SURGIFOAM

(words only): SURGIFOAM

Standard Character claim: Yes

Current Status: A Section 71 declaration has been accepted.

Date of Status: 2011-08-11

Filing Date: 2003-11-11

Transformed into a National Application: No

Registration Date: 2005-07-12

Register: Principal

Law Office Assigned: LAW OFFICE 114

Attorney Assigned:
CORDOVA RAUL

Current Location: 830 -Post Registration

Date In Location: 2011-08-11

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Ferrosan Medical Devices A/S

Address:

Ferrosan Medical Devices A/S
Sydmarken 5 DK-2860 Søborg
Denmark

Legal Entity Type: A/S (limited liability company)

State or Country Where Organized: (NOT AVAILABLE)

GOODS AND/OR SERVICES

International Class: 005

Class Status: Active

Surgical and wound dressings; medical plasters; haemostatic and vulnerary absorbable gelatine powder, sponges, tampons, paste and sterile sodium chloride for surgery and dental surgery

Basis: 66(a)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

International Class: 010

Class Status: Active

Syringes, tubes and catheters for treatment of wounds; surgical sponges; basins and vials for medical purposes namely for mixing and preparing haemostats

Basis: 66(a)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

Prior Registration Number(s):

2425425

MADRID PROTOCOL INFORMATION

International Registration Number: 0815000

International Registration Date: 2003-11-11

Priority Claimed: No

Date of Section 67 Priority Claim: (DATE NOT AVAILABLE)

International Registration Status: Request For Extension Of Protection Processed

Date of International Registration Status: 2004-01-14

International Registration Renewal Date: 2013-11-11

Notification of Designation Date: 2004-01-01

Date of Automatic Protection: 2005-07-01

Date International Registration Cancelled: (DATE NOT AVAILABLE)

First Refusal: Yes

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2011-08-11 - Notice Of Acceptance Of Sec. 71 - Mailed

2011-08-11 - Sec. 15 Acknowledgement - Mailed

2011-08-11 - Section 15 acknowledged

2011-08-11 - Registered-Sec.71 Accepted

2011-07-08 - Section 15 affidavit received

2011-07-08 - Registered-Sec.71 Filed

2011-08-10 - Case Assigned To Post Registration Paralegal

2011-07-08 - PAPER RECEIVED

2011-02-04 - Change Of Owner Received From IB

2007-09-06 - Final Decision Transaction Processed By IB

2006-04-21 - Final Decision Processed And Sent To IB

2005-07-12 - Registered - Principal Register

2005-04-19 - Published for opposition

2005-03-30 - Notice of publication

2005-01-18 - Law Office Publication Review Completed

2005-01-07 - Assigned To LIE

2005-01-04 - Approved for Pub - Principal Register (Initial exam)

2004-12-11 - Amendment From Applicant Entered

2004-12-02 - Communication received from applicant

2004-12-02 - PAPER RECEIVED

2004-08-19 - Refusal Processed By IB

2004-06-03 - Non-final action mailed

2004-05-19 - Assigned To Examiner

2004-01-23 - New Application Entered In Tram

2004-01-14 - Sn Assigned For Sect 66a Appl From IB

ATTORNEY/CORRESPONDENT INFORMATION

Correspondent

Sandel, Løje & Wallberg

Frederiksgade 7,

P.O. Box 9006

DK-1265 Kobenhavn K, Denmark



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Trademark Assignment Abstract of Title

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Serial #: [79000134](#)

Filing Dt: 11/11/2003

Reg #: [2967219](#)

Reg. Dt: 07/12/2005

Registrant: Ferrosan A/S

Mark: SURGIFOAM

Assignment: 1

Reel/Frame: [4472/0590](#)

Received: 02/04/2011

Recorded: 02/04/2011

Pages: 2

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: [FERROSAN A/S](#)

Exec Dt: 11/25/2010

Entity Type: UNKNOWN

Citizenship: DENMARK

Entity Type: A/S (LIMITED LIABILITY COMPANY)

Citizenship: DENMARK

Assignee: [FERROSAN MEDICAL DEVICES A/S](#)

SYDMARKEN 5

DK-2860 SØBORG, DENMARK

Correspondent: FERROSAN MEDICAL DEVICES A/S

SYDMARKEN 5

DK-2860 SØBORG

DENMARK

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